

**EUROPEAN EXTERNAL ACTION SERVICE**



Parliamentary Affairs Division

**Report of the European External Action Service**

**On Access to Documents**

**2016**

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## ANNUAL REPORT ON ACCESS TO DOCUMENTS

FOR 2016

### A. Introduction

Article 17.1 of Regulation (EC) n° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> (hereafter referred to as “the Regulation”) provides that “*Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.*”

### B. Regulatory, administrative and practical measures

The legal and administrative basis for access to documents held by the EEAS is the HR/VP's Decision of 19 July, 2011. It should be noted that, as of 16 September 2015, handling of requests for access to documents was attributed to the Division for Parliamentary Affairs (SG.AFFGEN.2), in which a Transparency Team was created.

### C. Key developments

Article 11 (1) of the Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents provides that “[...] *each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form.* [...]”.

This e-EEAS Register was set up in the beginning of 2015 and entered into force in mid-February 2015. Therefore, documents that are registered in the new e-EEAS Register are only dated from 2015 onwards.

During 2016, the Transparency Team consulted the division in charge of the e-EEAS Register with a view to make the register more functional and raise awareness of the need to further promote registration in the register.

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<sup>1</sup> OJ L145, 31.5.2001, p. 43.

## D. Initial applications for access to documents

The following table indicates the number of initial applications processed by the EEAS in 2016.

	Number of initial requests received
Q1	29
Q2	36
Q3	19
Q4	34
<b>Total 2016</b>	<b>118</b> of which 39 requests (33%) came from the academic sector

A positive reply and full access to the documents requested was given to 80.5% of the initial applications (95 requests).

Partial access was given to 11% of the initial applications (13 requests).

5% of the cases (6 requests) were subject to a full refusal.

For 4 requests, additional information was asked from the requestor in order to better understand what the s/he was looking for, yet no answer was received.

The grounds for (partial or total) refusal most frequently evoked were <sup>2</sup>:

- The protection of the public interest as regards international relations (Art. 4(1)(a) third indent) for 48% of the cases (9 requests);
- The protection of privacy and the integrity of the individual (Art. 4(1)(b)) for 37 % of the cases (7 requests);
- The protection of the public interest as regards defence and military matters (Art. 4(1)(a) second indent) for 5% of the cases (1 requests);
- The protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State (Art. 4(1)(a) fourth indent) for 5% of the cases (1 request);
- The protection of the commercial interests of a natural or legal person, including intellectual property (Art. 4(2) for 5% of the cases (1 request);

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<sup>2</sup> The percentages given are that of the cases for which the document(s) was/were partially or totally refused, i.e. a total of 19 cases in 2016.

**E. Cooperation with other Institutions for access to documents**

During 2016, the EEAS was consulted 1 time by the competent service of the Secretariat General of the European Commission. The EEAS also answered directly to numerous requests for which the Commission indicated to the requestor that the competence had been transferred to the EEAS.

The EEAS was consulted regularly (38 times in 2016) by the transparency service of the General Secretariat of the Council, mainly on documents that were produced under the responsibility of services that were transferred from the General Secretariat of the Council to the EEAS at the time when the EEAS was set up. In addition, several consultations took place concerning documents produced after 1 January, 2011, when the EEAS was established.

There were also a few occurrences when the EEAS consulted the General Secretariat of the Council or specific DGs of the Commission, since they had produced documents held by the EEAS. Extensive consultation between institutions occurred on requests for access to documents relating to the various regimes of restrictive measures, as well as on requests for privileged access and/or access to personal data, which had been sent in parallel to several institutions.

**F. Consultation of third parties**

In accordance with Art. 4(4), third States' administrations were consulted at several occasions with regard to requests for access to documents and correspondence held by the EEAS, but originating from a third State.

We also had consultations during the year with CSDP missions and other third parties.

**G. Confirmatory applications for access to documents**

In 2016, the EEAS examined two confirmatory requests. The refusal to grant access to the documents requested was confirmed in both cases.

**H. Further recourse concerning access to documents requests**

In 2016, there was one complaint to the Ombudsman against the EEAS regarding the implementation of Regulation in 1049/2001.